THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.22815 OF 2005

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Dated: 25.10.2005

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Between

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N. Adilaxmi, W/o. N. Balaiah, R/o. Kothapally Village, Gooty Mandal, Anathapur District.

...PETITIONER

AND

The District Collector (In-charge)/District Election Authority (Cooperation), Anathapur District and others.

...RESPONDENTS

ORDER:

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This writ petition is filed seeking a Writ of Mandamus to declare the action of the second respondent in accepting the nomination of the third respondent and rejecting the petitioner's nomination pursuant to the election notification issued by the first respondent dated 05.10.2005 as arbitrary and illegal.

It is the case of the petitioner pursuant to the election notification issued by the first respondent dated 05.10.2005 seeking to conduct election to constitute the Managing Committee of the Thondapadu PACS, Gooty, Anathapur District, the petitioner filed nomination on 18.10.2005 but her application has been rejected on 19.10.2005 on the

ground that she has produced the No Overdue Certificate only on 19.10.2005 and therefore, she is a defaulter of the payment of dues and she is not entitled to be elected.

Learned counsel for the petitioner submits that, in fact, the petitioner paid the due amount of Rs.27,400/- on 18.10.2005 but the receipt has not been issued on 18.10.2005 and it was issued only on 19.10.2005. Had her nomination been accepted she would have got an opportunity to contest for election to Ward No.3, as there is only one nomination of the third respondent, which has been accepted. The objection of the petitioner that, in fact, the third respondent is also a defaulter and he is not entitled to be elected has been rejected and her nomination also has been illegally rejected. It is further submitted that the petitioner made a representation on 20.10.2005 by sending a telegram requesting the District Collector cum Election Authority-first respondent to conduct an enquiry with regard to the payment of dues by her on 18.10.2005 and to direct the election officer to accept her nomination but not action has been taken so far.

Without going into the merits of the case, I am of the opinion that if the petitioner paid the dues on 18.10.2005 she is entitled to contest in the said election, as 18.10.2005 was the last date for filing valid nomination, but if she paid the dues on 19.10.2005 she is not entitled to contest in the said election. Therefore, it is just and necessary to consider the said representation filed by the petitioner and pass appropriate orders.

Accordingly, the writ petition is disposed of directing the District Collector, Anathapur, to consider and dispose of the representation of the petitioner said to have been sent by way of telegram on 20.10.2005 with regard to the payment of dues alleged to have been paid by the petitioner on 18.10.2005 and pass appropriate orders in accordance with law.

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V. ESWARAIAH, J

October 25, 2005

DSK